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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,461	09/30/2003	Franco Maglione	BJA336A	5564
7590 01/12/2006 BOLESH J. SKUTNIK PhD. JD 515 Shaker Road East Longmeadow, MA 01028			EXAMINER SHAY, DAVID M	
			ART UNIT 3735	PAPER NUMBER
DATE MAILED: 01/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/675,461	MAGIONE	
	<b>Examiner</b>	<b>Art Unit</b>	
	david shay	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on October 24, 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>September 30, 2003</u> . | 6) <input type="checkbox"/> Other: _____  |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5, 7, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichols in combination with Del Giglio and Proebstle et al. Nichols teaches a method of treating varicoceles by threading a catheter through the venous system and heating material in the vicinity of the end of the device, which can be done by laser radiation. Del Giglio teaches precise placement of an optical fiber, which can be about 400 microns in diameter with a bare tip that is extended 1 cm beyond the tip of the introducer, and applying laser pulses. It would have been obvious to the artisan or ordinary skill to employ the ablation method of Del Giglio in the method of Nichols, since Nichols gives no particulars of the laser application or to employ the varicocele destruction method of Nichols in the method of Del Giglio, since these structures also can be efficaciously treated by laser application, and in either case to employ a 940 nm diode laser, as taught by Proebstle et al, since this is not critical and produces no unexpected result; to employ echo color Doppler ultrasound for visualization, since this particular type of ultrasound provides no unexpected result over the ultrasound suggested by Farley et al; and to perform angiography after the laser has been applied to assure closure of the vessel, since this is commonly done in angioplastic procedures, official notice of which is hereby taken, thus producing a method such as claimed.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichols in combination with Del Giglio and Proebstle et al as applied to claims 1-5, 7, 8 and 12 above, and further in combination with Farley et al. Farley et al teach a method of treating venous varicosities by threading a catheter through the venous system and confirming the position

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thereof with ultrasound, fluoroscopy, or angioscopy. It would have been obvious to the artisan of ordinary skill to employ the positioning technique of Farley et al in the combined method of Nichols, Del Giglio, and Proebstle et al, since this would allow treatment of sites not close to the surface of the skin, and to employ echo color Doppler ultrasound for visualization, since this particular type of ultrasound provides no unexpected result over the ultrasound suggested by Farley et al; and to perform angiography after the laser has been applied to assure closure of the vessel, since this is commonly done in angioplastic procedures, official notice of which has already been taken, thus producing a device such as claimed.

Applicant's arguments with respect to claims 1-5 and 7-12 have been considered but are moot in view of the new ground(s) of rejection.

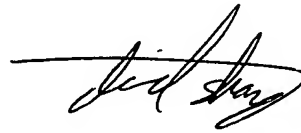
Any inquiry concerning this communication or earlier communications from the examiner should be directed to david shay whose telephone number is (571) 272-4773. The examiner can normally be reached on Tuesday through Friday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ali Imam, can be reached on Monday, Tuesday, Wednesday, and Thursday at (571) 272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "David Shay", with a stylized flourish at the end.

DAVID M. SHAY  
PRIMARY EXAMINER  
GROUP 330